

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)
TUESDAY, THE FIFTH DAY OF APRIL,
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION No. 7368 of 2005

Between:

S.V.High School, Kanagudur, Kadapa District,

Rep. by Correspondent Sri S.Kiran Kumar Reddy.

..... PETITIONER

AND

1. State of A.P., rep. by its Secretary to Government, Education Department, Secretariat, Saifabad, hyderabad.
2. The Commissioner and Director of School Education, A.P., Hyderabad.
3. The Regional Joint Director of School Education, Kadapa.
4. The District Educational Officer, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring as illegal, arbitrary and unconstitutional the action of respondents in not allowing the petitioner to fill up aided vacant posts and issue a consequential direction to the respondents forthwith allow the petitioner to fill up the posts in terms of permission granted by the 4th respondent dated 13.07.2004.

Counsel for the Petitioner: MR. A.VENKATARAMANA

Counsel for the Respondent Nos.1 to 4: G.P. FOR EDUCATION

The Court at the stage of admission made the following :

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ORDER :

This writ petition is filed seeking a Writ of Mandamus declaring that the action of the respondents in seeking to stop further process on the selections made by the petitioner institution for recruitment to the aided posts in the petitioner institution despite the selections were made after permission from the 4th respondent – District Educational Officer, Kadapa District for filling up of vacant posts as arbitrary and illegal.

It is stated that six aided posts i.e., School Assistant (Maths)-1 Secondary Grade Teachers-2, Hindi Pandit G.II-1, P.E.T.-1 and Craft (Weaving)-1 fell vacant in the petitioner School and for filling up the said posts, the petitioner has already taken all the necessary steps and the Competent Authority has also accorded the necessary permission vide proceedings dated 13-07-2004, in pursuance of which the petitioner published notification inviting applications from eligible candidates apart from the candidates sponsored by the Employment Exchange. Call letters were also sent to the applicants, however the further steps could not be taken in view of the general ban imposed by the Government under the Memo dated 20-10-2004.

The specific case of the petitioner is that the general ban, imposed by the Government under Memo dated 20.10.2004 to fill up the aided vacant posts, cannot

be made applicable to the case on hand since the competent authority viz., 4th respondent on 13.07.2004 has accorded necessary permission to fill up the posts much prior to the ban imposed under the Memo dated 20.10.2004. In support of the said contention, the learned Counsel for the petitioner has relied upon a decision of this Court in W.P.No.22188 of 2004, wherein this Court has dealt with an identical issue. This Court, having considered the scope of Memo dated 20-10-2004, held that in the Memo dated 20-10-2004 though it is stated that no new posts of grant-in-aid would be created and the existing vacancies will also not be filled up, in the very same Memo it is stated that the general ban is not applicable for the posts for which permission was specifically granted by the Government and accordingly permitted the petitioner therein to proceed with the selection process notwithstanding the ban imposed under the Memo dated 20-10-2004.

The learned Counsel for the petitioner submits that the ratio laid down in the said decision squarely applies to the case on hand and therefore the petitioner may be permitted to fill up the vacancies in question notwithstanding the ban imposed under Government Memo dated 20-10-2004.

The learned Government Pleader for School Education appearing for the respondents does not dispute the same.

Accordingly, the Writ Petition is disposed of with a direction to the respondents to allow the petitioner to proceed with the selection process to fill up the vacancies in question in accordance with law notwithstanding the ban imposed under the Government Memo dated 20-10-2004. No costs.

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G.ROHINI, J.

Dated: 5th April, 2005.

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ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Secretary to Government, State of A.P., Education Department,
Secretariat, Saifabad, Hyderabad.
2. The Commissioner and Director of School Education, A.P., Hyderabad.
3. The Regional Joint Director of School Education, Kadapa.
4. The District Educational Officer, Kadapa District.
5. Two C.Cs. to the Government Pleader for Education, High Court Buildings,
Hyderabad. (O.U.T.)
6. Two C.D. copies.

